

EXHIBIT 14

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

)
PERFECT 10, INC.,)
)
Plaintiff,)
)
vs.) No. 11-0709980AB
) (JPRx)
GIGANEWS, INC., et al.,)
)
Defendants.)

JUDGMENT DEBTOR EXAMINATION OF NORMAN ZADA
Los Angeles, California
Thursday, January 28, 2016
Volume I

Reported by:
KATHLEEN E. BARNEY
CSR No. 5698
Job No. 223100
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1 Perfect 10 at a bank?

2 A I don't think so. You say, in other words,
3 went to a bank with a Perfect 10 check for -- are
4 you -- I mean, are you -- do you have Perfect 10
5 checks made out to cash? Because I don't think -- I 10:47:30
6 don't recall those checks being written, at least
7 not for many years, so I'm not sure.

8 Q I want to just identify Exhibit 1 as a
9 formality.

10 (Exhibit 1 was marked for 10:48:11
11 identification by the court reporter
12 and is attached hereto.)

13 ////

14 MR. BRIDGES: And Exhibit 2 also.

15 (Exhibit 2 was marked for 10:48:12
16 identification by the court reporter
17 and is attached hereto.)

18 BY MR. BRIDGES:

19 Q You're here today pursuant to the court
20 order I marked as Exhibit 1, correct? 10:48:44

21 A Yes.

22 Q And you recall seeing the order before
23 today?

24 A Yes.

25 Q And you reviewed it, I trust? 10:48:50

Page 23

1 A Yes.

2 Q And you also received and reviewed
3 Exhibit 2, correct?

4 A Yes.

5 MR. BRIDGES: I'll mark this as Exhibit 3. 10:49:55

6 (Exhibit 3 was marked for

7 identification by the court reporter

8 and is attached hereto.)

9 BY MR. BRIDGES:

10 Q And please identify it. 10:49:57

11 A You're asking me to identify it?

12 Q Yes.

13 A It looks like Perfect 10's 2014 financials.

14 Q Bruce Hersh, an accountant, prepared these
15 for Perfect 10; is that correct? 10:50:18

16 A Yes.

17 Q Has the financial report for year ending
18 December 31, 2015, yet been prepared?

19 A No. And it may not be prepared because
20 Perfect 10 basically has no money at this point, 10:50:40
21 so --

22 Q Have you instructed Mr. Hersh not to
23 prepare 2015 financials?

24 A I have told Mr. Hersh to prepare the tax
25 return and not the financial statements. Just 10:50:52

1 because, again, we have no money to do that.

2 Q I'll ask you to turn to page 2 of the
3 exhibit with Bates number ending in 9683.

4 Do you see that?

5 A Yes. 10:51:17

6 Q The last paragraph says:

7 "Q Management has elected to
8 omit substantially all of the
9 disclosures and the statement of cash
10 flows as required by generally 10:51:32
11 accepted accounting principles."

12 And it refers to omitted disclosures there.

13 What discussions did you have with Mr. Hersh
14 about following generally accepted accounting principles?

15 A None to my knowledge. Mr. Hersh has had 10:51:48
16 that statement on his forms since -- to the best of
17 my recollection, since the company started. I don't
18 recall asking him to do that. That's just what he
19 thought was appropriate because we were not a public
20 company and whatever. I don't know exactly why that 10:52:05
21 statement is in there.

22 Q What disclosures is he referring to there,
23 to your understanding?

24 A I have no idea. Remember, this is not a
25 public company. 10:52:21

1 the images without permission, which is a lot of
2 people.

3 Q What about persons that Perfect 10 has done
4 business with?

5 A You know, the agreements that we produced 11:37:21
6 speak for themselves. I can't think of anybody
7 else. There was -- I don't remember the names of
8 them. Again, the agreements were produced. I think
9 there was some sort of a music thing or -- but, you
10 know, the name -- the exact agreement escapes me. 11:37:41
11 So the answer is whatever the agreements state.

12 Q The problem is the agreements state what
13 the obligations are, but I'm trying to find out what
14 outstanding obligations there are.

15 A Let me put it this way. I'm not aware of 11:38:01
16 anybody that owes Perfect 10 money that we could
17 collect. Leo Mangalindan may have money, I don't
18 know. I couldn't find him. I was looking around
19 for him.

20 Q Leaving aside whether somebody can pay it 11:38:18
21 or not, I'm trying to find out all the persons who,
22 to your knowledge, owe Perfect 10 money in some
23 fashion.

24 A Well, that's -- all the persons is a big
25 collection of people, because there have been 11:38:33

1 hundreds of people that have used Perfect 10 images
2 without permission and, in our mind, they owe us
3 money for that.

4 Q Right. Apart from those?

5 A Apart from those, I'm not aware. I 11:38:48
6 mentioned HDNet. They claim that they -- that's --
7 that guy, Cuban, the Mark Cuban thing. I don't
8 think they owe us money because I don't think
9 they've reached the point at which they would have
10 to pay us. Mangalindan I suspect owes us money, 11:39:04
11 but I don't know how to locate him. I'm not aware
12 of any other parties that, you know, likely owe us
13 money.

14 Q Anybody owe you money from -- for
15 advertising that you furnished to them for the 11:39:22
16 magazine?

17 A No.

18 Q Does Perfect 10 have any pending litigation
19 other than this case?

20 A There's one case against AOL Germany that's 11:39:39
21 still going on. And that's the only one.

22 Q What is the status -- strike that.

23 Please tell me the history of that case.

24 A I think we filed it around 2009. I don't
25 remember the exact date. We have -- initially the 11:40:03

1 case was initially dismissed. We appealed it. My
2 understanding is that that appeal was denied. So
3 now we're doing our last appeal to the German
4 Supreme Court.

5 Q What relief is Perfect 10 seeking in that 11:40:16
6 case?

7 A I don't -- I mean, it's for copyright
8 infringement. I don't remember -- there are only
9 eight images involved, but -- so I don't remember
10 exactly. I'm sure it is a combination of monetary 11:40:38
11 and injunctive, but I don't know the numbers.

12 Q What lawyers are advising Perfect 10 on
13 that case?

14 A Matthius Van Enbenberg.

15 Q That's the name of the German lawyer? 11:41:00

16 A That's the name of the German lawyer.

17 Q Do you recall the name of his firm?

18 A I unfortunately would not -- I think I
19 produced a document which has the name of the firm
20 on it, but I don't remember. I couldn't tell you 11:41:14
21 the name exactly. It's some German name.

22 Q Do you know who is representing AOL in that
23 case?

24 A I don't remember.

25 Q Is there an American lawyer advising you on 11:41:22

1 that case?

2 A No.

3 Q So you're working directly with German
4 lawyers?

5 A Yes. 11:41:29

6 Q If Perfect 10 has no money, how is Perfect
7 10 funding that litigation?

8 A I would have to advance Perfect 10 loans to
9 do that.

10 Q Have you been doing so in the past three 11:41:46
11 years?

12 A I'm not sure about the past three years,
13 but I have done it at some point. I think when the
14 case started, I think Perfect 10 probably paid the
15 legal fees, but the next bill I'm going to have to 11:42:08
16 fund myself.

17 Q How much has Perfect 10 spent on that
18 litigation?

19 A I'm guessing 20,000 approximately. But,
20 you know, that's -- that's an informed guess. 11:42:17

21 Q 20,000 total?

22 A Yes.

23 Q Does that include funding you've provided
24 for the case?

25 A I don't think I provided funding for the 11:42:26

1 case, but I could be wrong on that. I -- I just
2 don't remember the last time that money had to be
3 sent to the German lawyers. I don't know if
4 Perfect 10 sent that money or if I sent it or if I
5 first gave it to Perfect 10, and then they sent it. 11:42:51
6 I don't remember which one of those it was.

7 Q So it's your statement that that's the only
8 other pending litigation apart from this case that
9 Perfect 10 has?

10 A Yes. 11:43:11

11 Q Are there any active disputes between
12 Perfect 10 and anyone else?

13 A I don't know what you mean by an active
14 dispute. I mean, anybody that we sent a DMCA notice
15 to and they didn't respond, you could call that 11:43:27
16 active. I don't know. I mean, we haven't pursued
17 litigation and we will not be able to pursue
18 litigation unless the appeal is reversed.

19 Q Has Perfect 10 sent new threat or demand
20 letters to anyone in the past three years? And by 11:43:46
21 that I'm not including a simple request to take
22 material down under Section 512(c)(3) of the
23 Copyright Act?

24 A You're not including that?

25 Q Right. 11:44:02

1 A I don't think so.

2 Q Has Perfect --

3 A Let me modify that. I mean, we had a

4 lawsuit against -- I think it was -- I'm trying to

5 remember the name of the company, but it was 11:44:15

6 dismissed. So that probably was in the last three

7 years. We just voluntarily dismissed it. I'm

8 trying to remember the name. I don't remember the

9 name right now. But aside from that, I can't think

10 of anything that you're talking about. 11:44:31

11 Q Are you referring to Lease Web case or --

12 A Was it Lease Web? I think we won Lease

13 Web. I think it was something after Lease Web. It

14 might have been a French company, but I don't

15 remember the name of it. I think it was a French 11:44:48

16 company that we dismissed.

17 Q A French and Canadian company?

18 A Yeah, yeah, that could be correct. I just

19 don't remember the name.

20 Q Perfect 10 dismissed that case? 11:45:02

21 A Yes.

22 Q Did it receive any payment?

23 A No. I don't know if I'm allowed to say

24 that. But I mean -- I probably shouldn't say that

25 really. 11:45:21

1 Q Well, we're entitled to get that
2 information.

3 A Well, it's confidential under the
4 settlement agreement.

5 Q But Perfect 10 received no money is what 11:45:27
6 you're saying?

7 A Yes, we voluntarily dismissed that case
8 without payment.

9 Q Are there any other outstanding unresolved
10 threats of litigation by Perfect 10? 11:45:47

11 A I -- again, aside from DMCA notices that
12 have been sent in the past, no.

13 Q Are there any outstanding unresolved
14 demands for payment by Perfect 10 to anyone?

15 A No. 11:46:12

16 Q Do you understand Perfect 10 now to have
17 copyright claims against others that can be asserted
18 in court?

19 A At this exact point in time, my
20 interpretation would be that we do, but, you know, 11:46:38
21 it's from a practical standpoint. We can't really
22 assert those claims.

23 Q What are the largest claims that you
24 believe that Perfect 10 has against others at the
25 moment? 11:46:54

1 assistance. You would, you know, have the cost of
2 copyrighting the material. But those are the direct
3 costs. But then obviously you're running an
4 operation where you have employees that you have to
5 pay to accomplish the ultimate creation of the 12:06:03
6 pictures. So there are a lot of indirect costs
7 that, in my mind, you can't -- you can't create the
8 film without paying for a lot of other things. And
9 that's where the \$53 million comes into play. And
10 maybe that's the wrong number. Maybe it's 35 12:06:30
11 million. But what it is, it's substantially more
12 than the cost of just the models and the location
13 fees and whatever.

14 Q So what are some of the indirect costs that
15 went into the costs of Perfect 10's generating its 12:06:41
16 own copyrights?

17 A I mean, I would say, you know, you've got
18 payroll. You've got insurance. You've got
19 electricity. You've got, you know, any rent, if
20 there is any, for the offices. It's kind of the 12:07:01
21 typical -- it's kind of the typical array of costs
22 of running a business.

23 Q Let me ask you to turn to the page with
24 Bates number that ends 9686. And there's a listing
25 of expenses that covers much of the page, correct? 12:07:58

1 A Yes.

2 Q Looking at the 2013 column, please --

3 A Yes.

4 Q -- please identify those expenses that
5 contributed to -- let me preface this. In 2013 -- 12:08:15
6 strike the previous discussion.

7 In 2013, did Perfect 10 generate any of its
8 own images?

9 A Looks like we did. Because I see a \$69,000
10 photography charge there. 12:08:46

11 Q Okay.

12 A Yeah, we did. We were shooting some. Not
13 a ton, but we were shooting some in 2013.

14 Q So looking at that column for 2013 on page
15 9686, which of those expenses did you understand to 12:08:59
16 relate to the creation of Perfect 10's copyrighted
17 material that it generated that year?

18 A I would say most of them. I mean, you
19 can't -- you can't get the film without paying for
20 electricity, hiring lawyers, you know, paying for 12:09:26
21 telephone expenses. I mean, you know, you've got to
22 do those things to create the film.

23 Q In 2014, however, Perfect 10 didn't create
24 new copyrighted images of its own, correct?

25 A That's correct. It looks that way, yeah. 12:09:46

1 Q So what copyright generation related
2 expenses does the 2013 column reflect that don't
3 exist in the 2014 column or exist in different
4 amounts?

5 A Well, now you're talking about continuing 12:10:09
6 to run the business, you know. We had -- we were
7 getting crushed financially and so -- but we still
8 had -- I still had to pay people, you know, at least
9 one employee, maybe more.

10 I mean, a lot of this stuff is litigation 12:10:29
11 expenses, but that's part, in my mind. Of
12 protecting your copyrights. I mean -- you know, so
13 part of the expense is legal expense and protecting
14 your copyrights. Otherwise they're not going to be
15 worth anything. 12:10:48

16 Q But the 2014 numbers include no amounts for
17 creating Perfect 10's own copyrighted material,
18 correct?

19 A It looks that way. But as I said before,
20 you know, from 2013, you know, as well as we filed a 12:11:01
21 lawsuit against your clients, which we were
22 obligated to continue to pursue in 2014, and that
23 lawsuit was designed, in part, to protect our
24 copyrights. So it's an indirect cost of doing
25 business and creating copyrights. 12:11:20

1 capital for Perfect 10?

2 A It's been money that I contributed to the
3 company.

4 Q Were there any other sources of that
5 paid-in capital? 12:40:14

6 A I can't recall any.

7 Q Have there ever been other investors in
8 Perfect 10 apart from yourself?

9 A Not to my recollection.

10 Q Ever any other shareholders, to your 12:40:26
11 knowledge?

12 A No.

13 Q Has Perfect 10 ever obtained loans from any
14 person or entity other than yourself?

15 A No. 12:40:46

16 Q Let's go to the next page, please, 9685.
17 Please, I'm going to ask you to take me through a
18 number of these items.

19 Under "Ordinary Income/Expense," there's a
20 heading "Income" and subheading "Internet." What 12:41:29
21 does that represent?

22 A I guess that's the money that we collected
23 from Perfect10.com.

24 Q And through what channels does that money
25 reach Perfect 10? 12:41:49

1 A It starts with Epoch, and then they either
2 send us checks and -- I mean -- so that's how it
3 gets there.

4 Q E-P-O-C-H.

5 Does the money come from any sources -- 12:42:05
6 strike that.

7 Does the money come from any channels other
8 than Epoch?

9 A For the Internet, I don't believe so.

10 Q And the money comes from Epoch only by way 12:42:17
11 of physical checks, you say?

12 A I think they're physical checks, yes. I
13 know there's a PayPal account, but I think it's
14 probably related to Epoch. I think.

15 Q You think the PayPal account is related to 12:42:36
16 Epoch?

17 A Yeah, but I don't know. I'm not sure,
18 though.

19 Q What does the next line "Sales" represent?

20 A That would be sales of back issues, 12:42:46
21 T-shirts, whatever.

22 Q What inventory does Perfect 10 maintain of
23 back issues and other product?

24 A As of right this minute?

25 Q Yes. 12:43:02

1 A It does not have any inventory.

2 Q How does it come up with items to sell?

3 A Well, basically, I purchased the magazines

4 from Perfect 10, I think somewhere in late March,

5 and so I'm basically providing the magazines to 12:43:16

6 Perfect 10, but we're not selling a lot of them.

7 But the ones we're selling, I'm providing to

8 Perfect 10.

9 Q You said that occurred in March?

10 A Yeah, late March. 12:43:29

11 Q 2015?

12 A 2015.

13 Q What -- tell me more about that purchase.

14 What was included in that purchase?

15 A I purchased -- there were two different 12:43:43

16 purchases. One was for 50,000, the other was for

17 20,000. And what I purchased was the car, the

18 furniture, the magazines, the computer servers, and

19 any other miscellaneous -- T-shirts and whatever.

20 Q What documents exist for that -- for those 12:44:05

21 purchases?

22 A There are corporate minutes.

23 Q Anything apart from corporate minutes?

24 A There would be two entries in the Bank of

25 America bank account showing a wire of 50,000 and 12:44:28

1 20,000. One was on March 26th and one was on
2 April 1st. I don't remember which date and which
3 number it was, but those were the dates when the
4 wires were made.

5 Q And what was the car that you purchased? 12:44:43

6 A 2009 Lexus.

7 Q And what was the furniture you purchased?

8 A I think my desk. You know, there are a
9 couple of other desks around the house.

10 Q Anything else? 12:45:01

11 A I guess the couch.

12 Q Anything else?

13 A There might have been a couple of beds.

14 Q What else?

15 A I cannot think of anything besides that. 12:45:15

16 Q And what was the stock of magazines that
17 you purchased?

18 A There were 3,000 or 4,000 magazines that we
19 had kept.

20 Q Anything else? 12:45:31

21 A When you say anything else --

22 Q Within the category of magazines.

23 A Well, whatever calendars we had, and there
24 were very few of those. That's pretty much it on
25 the magazine side. 12:45:53

1 Q So the 3,000 to 4,000 magazines you were
2 referring to were essentially back issues?

3 A Yes.

4 Q And calendars were back issues of calendars
5 from earlier years, presumably? 12:46:06

6 A Yes.

7 Q What computer servers did you buy?

8 A Our main computer server. There might have
9 been a couple of desktops here and there.

10 Q What else in computing equipment? 12:46:34

11 A That's -- I'm trying to think if there was
12 anything else. I guess printers.

13 Q What about monitors?

14 A Well, that would be part of the computer,
15 in my mind. You know, keyboard, monitor, computer. 12:46:56

16 Q What about storage media on which the
17 company stored its records?

18 A Well, that would be part of the computers.
19 Normally the computer has its own hard drive. I
20 think there was only one external drive that I can 12:47:30
21 think of. But now that I think about it, there are
22 some old -- there were some old drives that we have
23 that would have been included.

24 Q Does this include the computer servers that
25 operate the Perfect 10 website? 12:47:55

1 A No. Those are not our computers. Those
2 are not our servers.

3 Q But you did personally acquire servers, not
4 just desktop computers?

5 A I'm not sure exactly what the difference 12:48:11
6 is, but we acquired the computers that were
7 purchased by Perfect 10 that were used for Perfect
8 10's operation.

9 Q How did the -- how did Perfect 10 determine
10 the appropriate sales price of those materials when 12:48:41
11 you purchased them?

12 A Well, for the car, I looked up the value on
13 the Internet and it looked like it was about 30,000.
14 The magazines on -- we actually previously sold back
15 issues for 10 cents apiece, but I assumed they were 12:48:57
16 worth about \$2 apiece times 4,000. And the rest of
17 the furniture and the computers I viewed as -- so
18 subtract -- so 32,000 for the servers, which I
19 didn't feel were worth that much. And the few
20 printers we had and -- there really was very little 12:49:23
21 furniture.

22 Q To whom had Perfect 10 sold back issues for
23 10 cents apiece?

24 A I don't remember the parties, but I know
25 that when we were in Beverly Park, we had maybe 12:49:38

1 30,000 copies of Perfect 10 that we couldn't store.
2 It was too expensive. And the only people that were
3 willing to buy them in bulk would only pay us
4 something like 10 cents apiece.

5 Q Who was that, do you recall? 12:49:55

6 A I don't remember who that was.

7 Q Then you mentioned merchandise like
8 T-shirts, correct?

9 A Yeah, we had very little of that. But
10 yeah. 12:50:07

11 Q What other items did you purchase from
12 Perfect 10 in March 2015?

13 A Well, it was basically any hard asset other
14 than slides and things like that. So I think I
15 pretty much enumerated them. 12:50:30

16 Q Where does Perfect 10 maintain its
17 photographic slides?

18 A They're in our basement.

19 Q On Norfield Court?

20 A Yes. A lot of film is not in slides, 12:50:49
21 though, because it was purchased electronically, but
22 the ones that we have would be in Norfield Court.

23 Q Where does Perfect 10 maintain its
24 electronic images?

25 A Well, they would be on our servers. 12:51:05

1 Q So they're now your personal property?

2 A Well, the servers are my personal property.

3 The images are not -- I mean, in other words, the

4 copyright of the images are not my property, just

5 the servers.

12:51:27

6 Q Does Perfect 10 still maintain any physical

7 property in which original images are stored?

8 A Well, the slides and the videos.

9 Q And where are the slides and videos?

10 A They're in the basement of 11803 Norfield

12:51:59

11 Court.

12 Q But are they on your servers?

13 A Some of them probably are. But, again,

14 that would just be an electronic copy. That would

15 not be the physical item.

12:52:15

16 Q Right. But there are some -- there's some

17 images that Perfect 10 owns the copyrights to that

18 are only in electronic versions, correct?

19 A Yes.

20 Q Does Perfect 10 have physical possession of

12:52:27

21 all the electronic images that it owns?

22 A Well, I don't know. I mean, if the

23 servers -- if I purchased the servers, and the

24 servers were the only location that had the images,

25 then -- but the website, you know, I mean, has the

12:52:54

1 images, and that was not purchased. So I think you
2 would -- I mean, I think we would obviously make
3 available copies of the images, should that be
4 ordered by a court, but I don't -- you know, I think
5 I've explained the situation. We -- the purchase of 12:53:26
6 the servers was done because there's a lot of other
7 material on the servers besides just the images.
8 So, you know, we would make all of those available
9 if the court ordered that. That's the best way I
10 can put it. The images that are in current use are 12:53:47
11 on the website, and that is in Perfect 10's
12 possession.

13 Q Are the images on Perfect 10's website the
14 exact same resolution as the images on the servers
15 that you acquired? 12:54:03

16 A I would assume so, yeah.

17 Q Who would know?

18 A I mean, nobody that works for Perfect 10
19 would know now. I mean, you would do a -- you would
20 do a -- I believe it's -- in other words, what is on 12:54:14
21 the website is what was on the servers, to the best
22 of my knowledge.

23 Q Are the -- I'm not familiar with Perfect 10
24 having high resolution, which is on the website,
25 does it? 12:54:35

1 A Yes.

2 Q Which of those employees also resided or
3 have resided at Norfield Court any time in the last
4 three years?

5 A Jocelyn Binder, Melanie Poblete, Wendy 01:15:40
6 Augustine. And Sheena I think resided there too for
7 a while.

8 Q And for what periods of time did each of
9 them reside starting in 2014?

10 A Starting in 2014? 01:16:01

11 Q From 2014 to now. How much time did each
12 person reside?

13 A Melanie I think was there the whole time.
14 And Gwen has been there some of the time. I don't
15 remember exactly when Jocelyn left. She might have 01:16:16
16 been there part of 2014.

17 Q And Ms. Chou left before 2014?

18 A I don't -- I think she might have been
19 there for part of 2014. I don't, frankly, remember
20 that one. 01:16:31

21 Q Has anyone else lived at the Norfield Court
22 address --

23 A Well, they didn't live there, but the two
24 attorneys were there a lot of the time. But they
25 didn't live there. 01:16:41

1 Q Did anybody else other than Ms. Binder,
2 Ms. Poblete, Ms. Augustine, and Ms. Chou live at
3 Norfield Court since Perfect 10 moved to Norfield
4 Court?

5 A There was another girl, Lauren Gardner, but 01:16:55
6 she -- actually, she did a little bit of work for
7 Perfect 10 too, now that I think about it.

8 Q What did she do for --

9 A It was legal.

10 Q Paralegal work? 01:17:06

11 A Yeah. I mean, there could be -- you know,
12 burning infringements, stuff like that, you know.

13 Q Now, Perfect 10, you said -- well, strike
14 that.

15 I believe that Perfect 10 had storage media 01:17:34
16 on which it stored alleged infringements that it
17 found on the Internet, correct?

18 A Yes.

19 Q What media did it store those alleged
20 infringements on? 01:17:56

21 A Well, it would have been on the main
22 servers, but it would have also been on some
23 separate drives, separate external drives, so there
24 would have been a backup copy.

25 Q Were all those servers and external drives 01:18:18

1 among the items that you purchased in March --

2 A Yes.

3 Q -- 2015?

4 A Yes.

5 Q What was the business rationale for 01:18:29

6 Perfect 10 selling all those items to you in your

7 personal capacity?

8 A Well, the business was that they were
9 basically worth very little, I mean, in the sense
10 that like the couch in my house, okay, so it would 01:18:55

11 have been -- you know, it would have been very
12 disruptive to have that couch seized and, you know,
13 I paid what I thought was a reasonable price for it.
14 It's probably worth 2,000 or 3,000.

15 For the servers, we had all sorts of 01:19:16

16 confidential information on there. It would have
17 been totally disruptive to have those seized. For
18 the magazines, it would have completely destroyed
19 any opportunity for Perfect 10 to ever make a

20 recovery, because we wouldn't have any back issues 01:19:32

21 to sell. So whereas they were probably worth 10
22 cents a copy to a third-party purchaser, they're
23 worth more than that to Perfect 10, and I figured
24 they were probably worth roughly \$2 a copy.

25 Q And what about other items that you 01:19:49

1 purchased from Perfect 10?

2 A It would have been highly disruptive for me

3 to have my desk seized from my office. I paid what

4 I felt was more than a fair price for that. I don't

5 think people would have paid hardly anything for it. 01:20:08

6 Q Did Perfect 10 ask anybody to evaluate the
7 assets that you purchased?

8 A No.

9 Q Going back to 9685, there's a line for
10 repairs and maintenance. What were those for, do 01:21:08
11 you know?

12 A Well, that's for -- you know, we have a --
13 that number seems low. That would have been for our
14 tech guy. So I'm not sure why that number is so
15 low. Because I think we're paying him at least -- I 01:21:24
16 mean, at least 10,000 to 15,000 for Perfect 10 work,
17 so I don't know why that number is so low.

18 Q That number is for outside services, the
19 19,000 figure?

20 A I don't know. Maybe part of that is in 01:21:44
21 there.

22 Q What was the telephone expense for?

23 A Well, we're -- we have lines to conduct the
24 business.

25 Q What use of the telephone does Perfect 10 01:21:52

1 make in its current operations?

2 A I would say it was mostly Perfect 10
3 expenses. Because I really don't talk to anybody
4 about anything.

5 Q I'm trying to think of what Perfect 10 did 01:22:08
6 over the telephone that generated such a high
7 expense, given its state of operations in 2014?

8 A Well, I mean, I assume that telephone
9 expense included the wiring for our Internet access.
10 I'm not positive, but -- all I can tell you is I 01:22:25
11 didn't create this thing. I really had no
12 involvement in it, but I don't think that number
13 looks high to me. I mean, we had a bunch of
14 different lines. Each lawyer had a line. Mel had a
15 line. I had a line, so -- you know, and it adds up. 01:22:45

16 Q Did Perfect 10 have company cell phones?

17 A I don't think so.

18 Q Who uses the number (310) 476-0700?

19 A Perfect 10.

20 Q Okay. 01:23:29

21 A I mean, I obviously use it a little bit
22 too, but I would say the primary use is Perfect 10.

23 Q And what were the utilities for under the
24 expense?

25 A I assume it would be electrical, heating. 01:23:50

1 Maybe there's a little bit of water in there.

2 Q And the number below under "Confidential
3 Settlement," what does that represent?

4 A Well, that represents the totality of the
5 confidential settlements that Perfect 10 achieved in 01:24:13
6 2014.

7 Q And what did Perfect 10 do with the money
8 that came in under those settlements?

9 A Some of it went to pay expenses. And I
10 know that I took out some of that money, you know, 01:24:30
11 as payment to me for the \$53 million I invested in
12 the business, and the fact that I never even took a
13 salary from Perfect 10 in the course of the 18 years
14 I operated the business.

15 Q Do you know how much money you deducted 01:24:45
16 from your personal taxes based on Perfect 10's
17 losses as an S Corp.?

18 MR. MICKELSON: I think I might object to
19 that. You're asking him about his personal tax
20 deductions. Explain why that's relevant to 01:25:13
21 Perfect 10.

22 MR. BRIDGES: Well, because the perennial
23 Perfect 10 losses as a corporation had a direct and
24 material personal benefit to him based on choices in
25 structuring Perfect 10 and choices in incurring 01:25:36

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1 expenses of Perfect 10. And allocating certain
2 things to expenses.

3 MR. MICKELSON: I think that's another
4 thing we'll have to take before the judge, his
5 personal deductions on his own personal tax returns. 01:25:53

6 MR. BRIDGES: I'll ask you to mark the
7 transcript, then.

8 THE WITNESS: I'd like to also point out
9 that that number is in their possession. Because
10 they have all the Perfect 10 tax returns. I think 01:26:10
11 you have my tax returns too.

12 BY MR. BRIDGES:

13 Q I don't think we have your personal tax
14 returns.

15 A You got a fair number of them. And you can 01:26:18
16 see the extent to which those losses were deducted.

17 MR. MICKELSON: Do they have 2014?

18 THE WITNESS: Well, 2014 was not a losing
19 year, so it wouldn't apply. And I don't think 2013
20 was a losing year either. 01:26:39

21 MR. MICKELSON: If you have already
22 produced something to them, and they have it, and
23 he's asking about it, then it's already been
24 produced and there's no problem about answering it
25 now. So whatever you believe. 01:26:50

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1 Q Were all of the other -- who were all of
2 the other medical expense payments on behalf of?

3 A I believe it would be the Perfect 10
4 employees.

5 Q Perfect 10 employees? 02:32:18

6 A Uh-huh.

7 Q Including yourself?

8 A I am not sure about myself. Probably, but
9 I'm not sure about it.

10 Q What was the arrangement by which Perfect 02:32:28
11 10 was paying medical expenses for yourself and your
12 staff?

13 A I think it's pretty standard, isn't it, if
14 you're an employee of a corporation, the corporation
15 pays for medical expenses. 02:32:39

16 Q Not any corporation I've ever been a part
17 of.

18 A I don't know about your corporations, but I
19 think it's pretty standard for corporations to pay
20 insurance premiums for employees. 02:32:52

21 Q I'm not referring to insurance premiums.
22 I'm referring to Saul Rosoff, R-O-S-O-F-F, M.D.,
23 Victor Pineski, D.D.S., Howard Mandel --

24 A I don't think it's unusual at all for a
25 corporation to pay the medical expenses of its 02:33:11

1 employees that are not covered by insurance.

2 Q Which Perfect 10 employees are not covered
3 by insurance?

4 A What I said was to pay the medical expenses
5 that are not covered by insurance. I think it's 02:33:23
6 pretty standard for a corporation to pay those
7 medical expenses. And that's what those payments
8 reflect.

9 Q So for which employees were they?

10 A I would assume it was myself and Melanie 02:33:35
11 Poblete, but there might have been a Wendy Augustine
12 in there. I don't know. Unfortunately, I can't
13 tell you, looking at this, exactly what that was.

14 Q Do you have a written employment contract
15 with Perfect 10? 02:33:53

16 A I don't recall one, no.

17 Q Are there any directors or officers of
18 Perfect 10 other than yourself?

19 A No.

20 Q What other assets of any sort has Perfect 02:34:18
21 10 sold in the past three years? Apart from the
22 assets that you purchased in March of 2015.

23 A I don't think there were any.

24 Q Did Perfect 10 ever advertise any property
25 for sale or seek bids? 02:34:41

1 A Well, when we sold the house in 2009 -- the
2 house was put up for sale in late 2008 or early
3 2009.

4 Q When you refer to the house, that's the
5 house on Beverly Park? 02:35:01

6 A Yes.

7 Q Perfect 10 had title to that house?

8 A I believe so, yes.

9 Q At the time of the sale, what was the
10 existing mortgage on the house? 02:35:11

11 A I think it was \$10 million.

12 Q Who was the mortgagor on that?

13 A I don't remember.

14 Q What was the net sales price after
15 commission on the house? 02:35:34

16 A After commission? It was probably around
17 16 million, maybe a little bit -- let me think about
18 that. It was probably about 15.7 maybe, 15.6.

19 Q And that was in 2009?

20 A No. The house was actually finally sold in 02:35:52
21 2010.

22 Q And so what were the total net proceeds to
23 Perfect 10 after paying off the mortgage and paying
24 the commission?

25 A I imagine it was whatever the number I just 02:36:11

1 gave you minus 10 million, but that's just the first
2 thought. I don't know if there was anything else
3 that might have -- might have been involved there.

4 Q So the net proceeds were about 5.6 or 5.7
5 million? 02:36:39

6 A I'm not sure if that's correct. It might
7 have been -- for some reason, I remember four or
8 something. I don't remember exactly what amounts
9 were -- but it's in that general range.

10 Q And what happened to that money? 02:36:52

11 A I was paid that money to offset part of the
12 \$53 million that I had invested in the company and
13 as well as the monies that I had invested to build
14 the Beverly Park property.

15 Q Did that get reflected in any reduction in 02:37:08
16 the amount of paid-in capital shown in Perfect 10's
17 financial statements?

18 A Yes. I believe it was somewhere four point
19 some plus million.

20 Q Because I think the current financial 02:37:32
21 statements show 53 million, does it not?

22 A Right. But it was 57 million prior to the
23 house being sold. So the paid-in capital was
24 reduced by at least 4 million. I don't remember the
25 exact numbers there. 02:37:48

1 Q Who owns the property at Norfield Court?

2 A I do.

3 Q Do you own it personally or does a trust
4 own it?

5 A No, I own it personally. 02:37:58

6 Q Has Perfect 10 paid you rent?

7 A I'm not sure. I would have to -- you know,
8 Perfect 10 doesn't have any money anymore,
9 obviously, so it couldn't pay rent. I don't know
10 how Bruce handled that. 02:38:18

11 Q In the financial statements for 2014, do
12 you see any rent item that I've missed?

13 A I don't. But, again, you know, I was not
14 really -- I was very minimally involved in the
15 creation of these statements. 02:38:45

16 Q Since selling the Beverly Park property,
17 has Perfect 10 occupied any real property?

18 A Well, it's occupied Norfield to a modest
19 extent.

20 Q Any real property apart from that? 02:39:05

21 A Occupied real property? I mean, do you
22 mean something other than a house?

23 Q Well, it could include a house, it could
24 include an apartment, it could include a
25 condominium, it could include a warehouse. 02:39:24

1 average? I mean, I'd be speculating. Do you want
2 me to speculate?

3 Q I'd like your best estimate.

4 MR. MICKELSON: You can estimate.

5 THE WITNESS: I spent quite a bit of time 03:08:58
6 on the appeal. And how much time have I spent on
7 the appeal? I mean, maybe 40 to 50 percent of my
8 time. That's a ballpark estimate.

9 BY MR. BRIDGES:

10 Q And what else do you do for Perfect 10 03:09:23
11 apart from the GigaNews case?

12 A 2015 has been an unusual year because there
13 really hasn't been pretty much anything else going
14 on. There was a little bit work for AOL.DE. I
15 mean, obviously I have to review a tax statement. I 03:09:57
16 mean, there's not been too much else outside of
17 litigation, because we haven't been producing any
18 new film.

19 Q And so far in 2016, what have you done for
20 Perfect 10? 03:10:13

21 A Again, it would be anticipating your
22 opposition, so I've spent a little bit of time, you
23 know, working on that. Pretty much that's it.

24 Q Have you done any work for Perfect 10 other
25 than the GigaNews litigation related work in 2016? 03:10:29

1 A Aside from sending out a DMCA notice, no.

2 Q Let's switch gears a bit here.

3 This is Exhibit 4.

4 (Exhibit 4 was marked for

5 identification by the court reporter

03:12:03

6 and is attached hereto.)

7 BY MR. BRIDGES:

8 Q Do you recognize Exhibit 4 Mr. Zada?

9 A Looks like a Bank of America statement.

10 Q Is this a document I think that Perfect 10

03:12:12

11 produced in response to the subpoena, correct?

12 A Yes.

13 Q It's in Perfect 10's possession, correct?

14 A Yup.

15 Q There's a withdrawal on November 20, 2014.

03:12:28

16 It's an online banking transfer CHK 0277 in the

17 amount of \$850,000.

18 Do you see that?

19 A Yes.

20 Q Is that to your personal account?

03:12:51

21 A Yes.

22 Q Do you share that account with anyone else?

23 A No.

24 Q That's a personal account you have at Bank

25 of America?

03:13:03

1 A Correct.

2 Q At the same branch as your Perfect 10
3 account?

4 A I think it's the same branch.

5 Q What did that -- what prompted that 03:13:09
6 transfer of \$850,000?

7 A Well, I had been -- you know, we had gotten
8 a significant amount of settlements in 2014. We had
9 a settlement of \$1.1 million in, I believe, June. I
10 was entitled to that money. And after the summary 03:13:35
11 judgment orders were issued, I did not see any point
12 in keeping more cash than we needed in the account.

13 Now, of that \$850,000, about 500,000 to
14 550,000 was put back into the account in 2015.

15 Q And when you're referring to the summary 03:14:01
16 judgment orders, you're referring to the summary
17 judgment orders in the GigaNews case?

18 A Yes.

19 Q About six days before that transfer?

20 A Well, it was shortly before. I don't 03:14:20
21 remember the exact date.

22 Q And you said that you were entitled to that
23 money?

24 A Yeah. I had put 53 million into the
25 account. I had been instrumental -- I was planning 03:14:31

1 on removing the money, but the summary judgment
2 orders prompted me to take it out in one sum instead
3 of just taking it out more slowly. But, as I said
4 before, about 500,000 to 550,000 was put back into
5 the account in 2015.

03:14:49

6 Q For what purpose was the money put back
7 into account in 2015?

8 A To pay legal bills primarily.

9 Q How much is in the Bank of America account
10 today?

03:15:01

11 A Very close to zero, because I believe your
12 company has been attaching it. I mean, your clients
13 have been attaching the account. So any monies that
14 were there have been removed.

15 Q They were not removed as a consequence of
16 the attachments, correct?

03:15:15

17 A No. They were -- your company took
18 whatever was in the account, and I have had to add
19 additional monies to the account to cover additional
20 expenses, you know, after your defendants started
21 removing all of the money from the account.

03:15:32

22 Q I think we levied \$600.

23 A I don't know what it was. I don't recall
24 you taking a lot.

25 The fact of the matter is that whatever

03:15:58

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1 would have been there -- the account has had very
2 little money since sometime in early 2015, maybe mid
3 2015. I have had to put money back in to the tune
4 of 500,000 to 550,000 to pay legal bills.

5 Q And you've put that money into the Bank of 03:16:18
6 America account?

7 A Yes, I did.

8 Q And you're paying legal bills out of the
9 Bank of America account?

10 A I have been paying legal bills out of Bank 03:16:26
11 of America in most cases. Sometimes I've sent the
12 money personally directly. Sometimes I put the
13 money in the account and then pay the money out of
14 the account. I would say 400,000 to 450,000 was put
15 into the account, and then paid out of the account. 03:16:43

16 Q So who did Perfect 10 pay the money to in
17 2015?

18 A I paid the money to Jenner & Block, to Peg
19 Toledo, to Irell & Manella, to -- did I say Jenner &
20 Block? 03:17:10

21 Q Yes.

22 A To David Schultz. To Eric Benink. And to
23 my colleague here, Matthew Mickelson.

24 Q How much money did Perfect 10 pay to Jenner
25 & Block? 03:17:24

1 A It was about \$59,000.

2 Q How much to Peg Toledo?

3 A I don't know the exact number. The bank

4 statements would show. I think it was around

5 60,000. 03:17:35

6 Q How much to Irell & Manella?

7 A 25,000.

8 Q How much to David Schultz?

9 A I'm guessing 80,000 to 100,000, but, again,
10 these are all approximations. You'd have to look at 03:17:44
11 the bank statements.

12 Q And how much went out to Eric Benink?

13 A I don't know. 20,000 or 30,000. It was
14 less than the others.

15 MR. BRIDGES: The next exhibit is No. 5. 03:19:00

16 (Exhibit 5 was marked for
17 identification by the court reporter
18 and is attached hereto.)

19 BY MR. BRIDGES:

20 Q Do you recognize this document? 03:19:09

21 A Yes.

22 Q What is it?

23 A Bank of America statement.

24 Q For Perfect 10, correct?

25 A Yes. 03:19:16

1 Q It's from Perfect 10's records, correct?

2 A Yes.

3 Q On October 7, page 3 of the exhibit,

4 there's an online banking transfer of \$100,000,

5 correct?

03:19:28

6 A Correct.

7 Q That was also to your account, correct?

8 A Yes.

9 Q What's the full account number of your
10 personal account?

03:19:44

11 A I don't know what it is offhand.

12 Q Do Perfect 10 employees go to the bank to
13 make deposits to your personal account?

14 A I don't recall any such activity, but I
15 can't say it didn't happen ever in the past.

03:20:05

16 MR. BRIDGES: Next one is Exhibit 6.

17 (Exhibit 6 was marked for
18 identification by the court reporter
19 and is attached hereto.)

20 BY MR. BRIDGES:

03:21:04

21 Q Can you please identify Exhibit 6.

22 A I think it's another Bank of America
23 statement.

24 Q Perfect 10 Bank of America statement from

25 Perfect 10's records, correct?

03:21:12

1 A Yes.

2 Q There is a transfer on March 26th in the
3 amount of \$454,002.05.

4 Do you see that?

5 A Yes. 03:21:45

6 Q What was the purpose of that transfer?

7 A If we agree I'm not waiving attorney-client
8 privilege, I will answer that question.

9 Q Okay.

10 A Your clients were going after the Perfect 03:21:57
11 10 attorneys for -- I think it was something like
12 \$796,000. And Eric Benink was concerned that, you
13 know, if you had been successful, that would have
14 caused damage to his business. So he asked me to
15 wire to him something like \$800,000. 454,000 was 03:22:20
16 essentially a short-term loan to Perfect 10, which
17 was then sent to Eric Benink, and the other 300,000
18 or so I sent personally to him.

19 Q Because it looks as though -- I'm sorry --
20 the next day there's a transfer out to his firm in 03:22:45
21 that amount of money, correct? Next page, March 27.

22 A Yeah. Okay.

23 Q Exhibit 7 is another statement from Bank of
24 America for Perfect 10 from Perfect 10's records,
25 correct? 03:23:27

1 A Yes.

2 (Exhibit 7 was marked for

3 identification by the court reporter

4 and is attached hereto.)

5 BY MR. BRIDGES:

03:23:32

6 Q There's an entry for -- on May 12, 2015,

7 correct?

8 A Yes.

9 Q What was that for?

10 A Well, apparently, to the best of my

03:23:45

11 recollection, your motion for sanctions against the

12 attorneys was denied by magistrate Judge Hillman,

13 and so there was no need for the security, if you

14 will, to Eric Benink, so he deducted whatever his

15 legal bill was for the month from the 454 and sent

03:24:06

16 me back the balance, 433. Or sent it to Perfect 10

17 and then I the next day removed the original

18 short-term loan of 454,000 on May 13th.

19 Q And then on May 13th on the next page, you

20 then returned that money to your personal custody,

03:24:32

21 correct?

22 A Yes, uh-huh. I returned the short-term

23 loan.

24 Q And also the next item there looks like a

25 payment to American Express. Is that for an account

03:24:55

1 in your name it looks like?

2 A I don't remember if the account has both my
3 name and Perfect 10's name on it or just my name,
4 but, yes, there's a payment to American Express,
5 yes. 03:25:15

6 Q Do you carry only one American Express
7 card?

8 A I think so, yes.

9 Q And the next entry there is an entry paid
10 to State Farm identifying that payment somehow with 03:25:24
11 you, Norman Zada, correct, \$1435?

12 A I'm not sure what that State Farm payment
13 is for. It could be to insure Perfect 10's
14 property. I just don't remember.

15 Q It may match up with the earthquake 03:25:52
16 insurance that we saw earlier.

17 A I'm not sure.

18 Q Exhibit 8 is yet another bank statement
19 from Bank of America for Perfect 10 from Perfect
20 10's records, correct? 03:26:45

21 A Correct.

22 (Exhibit 8 was marked for
23 identification by the court reporter
24 and is attached hereto.)

25 ////

1 BY MR. BRIDGES:

2 Q And these show -- looks like it's correct
3 on page 3, five online -- sorry, six online
4 transfers from your personal account to Perfect 10,
5 correct? 03:26:58

6 A Right.

7 Q Under "Withdrawals," there's an item that
8 says, "Time Insurance," and it identifies the name
9 Melanie Poblete. Do you know what that was for?

10 A Maybe it's her health insurance. 03:27:14
11 Unfortunately, I don't know.

12 Q And then there are payments out to Toledo
13 Don, David Schultz, Jenner & Block, Crousecal Filan,
14 and Toledo Don again, correct?

15 A Yes. 03:27:38

16 Q And two more American Express payments as
17 of September 23, correct?

18 A Yes.

19 Q And there's a payment -- that's the German
20 firm handling your -- 03:27:52

21 A The AOL.DE, that's correct.

22 Q That's September 24, correct?

23 A I believe that's a payment to the AOL, the
24 firm handling the AOL.DE.

25 Q Exhibit 9 is another bank statement for 03:28:04

1 America, right?

2 A Oh, okay.

3 Q So do you to this day have a personal
4 account at Wells Fargo Bank?

5 A No. What my testimony was was that 03:57:29
6 sometime -- and now I realize it was in 2012, it may
7 have been early 2013 -- the bank accounts were
8 transferred from Wells Fargo to Bank of America.

9 Exhibit 12 shows a transfer of -- at 8/21/2012 of
10 100,000 from the Perfect 10 account to the Norm Zada 03:57:52
11 account at Wells Fargo.

12 Q At Wells Fargo?

13 A Yes. This other thing was 2015 Bank of
14 America.

15 Q So at the time of Exhibit 12 when Perfect 03:58:02
16 10 had a bank account at Wells Fargo, you personally
17 had a bank account at Wells Fargo, correct?

18 A Yes. And it was the 08142905 account.

19 Q Did you close both your personal and the
20 Perfect 10 Wells Fargo accounts and move them both 03:58:22
21 to Bank of America at the same time?

22 A I believe so. I mean, I'm not a hundred
23 percent sure. I'm not sure there's not a tiny
24 amount in Wells Fargo. But I haven't seen a
25 statement for any Wells Fargo bank account in a long 03:58:37

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1 time. So I don't think there are.

2 Q Who would know most about that?

3 A It would be probably myself and Bruce
4 Hersh, but I don't recall there are Wells Fargo bank
5 accounts still open. 03:58:51

6 Q Does Perfect 10 -- strike that.

7 I think we're up to Exhibit 14.

8 (Exhibit 14 was marked for
9 identification by the court reporter
10 and is attached hereto.) 03:59:20

11 BY MR. BRIDGES:

12 Q I'd just ask you to confirm that Exhibit 14
13 is a series of tax return papers for Perfect 10,
14 Inc., for tax year 2014 from Perfect 10's business
15 records; is that correct? 03:59:42

16 A Yes, that looks to be correct.

17 Q Does Perfect 10 own a safe?

18 A If it does, that would have been one of the
19 things that I purchased. I'm not sure it does. But
20 if it does, that would be one of the things I 04:00:15
21 purchased.

22 Q Is there a safe in the residence at
23 Norfield Court?

24 A Yes.

25 Q What is in the safe? 04:00:26

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1 A Basically copyright certificates, valuable
2 documents. Some cash.

3 Q How much cash?

4 A Is that something I need to -- it's my
5 personal money. 04:00:43

6 MR. MICKELSON: If it's your personal
7 money, no, you don't have to answer that.

8 MR. BRIDGES: I think I'm entitled to know.

9 MR. MICKELSON: No, you don't have to
10 answer that. That's beyond the scope. 04:00:50

11 MR. BRIDGES: Well, it appears if he
12 purchased the contents of the safe from Perfect 10,
13 I'm entitled to know the cash.

14 THE WITNESS: I did not --

15 MR. MICKELSON: If the cash in there was 04:01:03
16 Perfect 10's, yes.

17 THE WITNESS: It was absolutely not Perfect
18 10's cash. The only thing that I would have
19 purchased from Perfect 10, if in fact Perfect 10
20 owned the safe, would be the actual safe, not the 04:01:11
21 contents of the safe.

22 BY MR. BRIDGES:

23 Q Well, you mentioned there are copyright
24 certificates and valuable documents and cash. This
25 is a classic potential commingling of cash in a 04:01:20

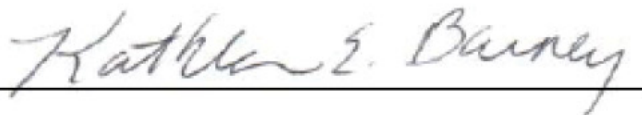
1
2
3 I, the undersigned, a Certified Shorthand
4 Reporter of the State of California, do hereby
5 certify:

6 That the foregoing proceedings were taken
7 before me at the time and place herein set forth;
8 that any witnesses in the foregoing proceedings,
9 prior to testifying, were placed under oath; that a
10 record of the proceedings was made by me using
11 machine shorthand which was thereafter transcribed
12 under my direction; further, that the foregoing is
13 an accurate transcription thereof.

14 I further certify that I am neither
15 financially interested in the action nor a relative
16 or employee of any attorney of any of the parties.

17 IN WITNESS WHEREOF, I have this date
18 subscribed my name.

19
20 Dated: 02/12/2016

21
22 
23

KATHLEEN E. BARNEY

24 CSR No. 5698

25
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